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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,594	11/16/2001	Leland R. Nevill	500060.02	6204

7590 11/22/2005  
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EXAMINER

ST CYR, DANIEL

ART UNIT PAPER NUMBER

2876

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/998,594

Applicant(s)

NEVILL, LELAND R.

Examiner

Daniel St.Cyr

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 and 28-31 is/are allowed.
- 6) ☒ Claim(s) 23,27,32-34 and 36 is/are rejected.
- 7) ☒ Claim(s) 24 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 7 in the appeal, filed 9/13/05, with respect to common ownership of the primary reference Beffa (5,927,512) have been fully considered and are persuasive. The final rejection of 7/28/03 has been withdrawn.

### ***Claim Objections***

2. Claim 33 is objected to because of the following informalities: line 1 "programmable" should be deleted to make the claim properly dependent on claim 33. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 23, 26, 27, and 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Stafford et al, US patent No. 5,482,008.

Stafford et al disclose an electronic animal identification system comprising: a package 1 having an electronic device (integrated circuit chip) 24, the electronic device includes an identification circuit 5 for storing identification data; and an optical identification mark 11 on the package of the integrated circuit, the optical identification mark encoding information corresponding to the identification data (the optical code is crossed reference by reading the electronic code to make the optical code) (see figure 11, 12; and col. 7, lines 9+).

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Re claims 26 and 33, microchip circuits are programmable circuits having a plurality of programmable links for programming encoded information, such as identification information.

Re claim 27, the optical identification mark includes an adhesive label (see col. 6, line 10).

Re claim 34, the optical identification mark encodes information identical to the identification data (the identification data is scan to produce the optical data) (see col. 6, lines 4-47).

***Allowable Subject Matter***

5. Claims 1-22 and 28-31 are allowed.

6. Claims 24 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record teaches systems and methods for marking and identifying articles, which include providing electronic IDs and optical IDs, wherein both IDs have information corresponding to each other, the prior art of record fails to disclose or fairly suggests all the method steps including reading the optical code and/or the electronic code then accessing a look up table to associate the codes, reading both codes to cross-reference the optical code with the read electronic code, etc. These limitations in conjunction with other limitations in the claims were not shown by, would not have been obvious over the prior art of record.

***Conclusion***

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8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rawson, Sr. et al, US Patent No. 5,949,059.

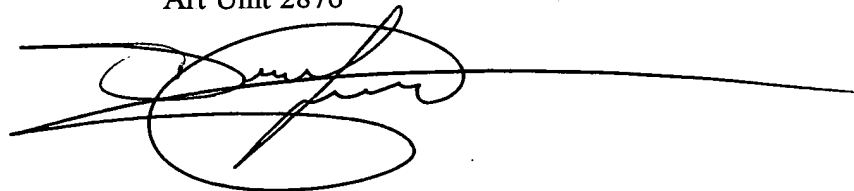
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

DS



MICHAEL G. LEE  
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